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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/015,843
Filing Date: December 10, 2001
Appellant(s): FLEGEO, ARNAUD

Darrin Wesley Harris
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 8, 2005 appealing from the Office action mailed May 4, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 11, 12, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Spakman et al. (3,179,737). Spakman discloses a metal casing for a motor car radio. The metal casing comprises a main body 1 with an opening, a cover 3

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moveable between an assembled position and a disassembled position, a locking element 9 moveable between a locked position and an unlocked position. The cover 3 includes at least one hook (disclosed in Figure 7) and in the assembled position, the hook extends through the opening into the main body. Figures 1 and 2 disclose the locking element extending through and into the main body and cooperating with the hook to lock the cover 3 with the main body 1. Furthermore, the groove formed from the hooks or lugs is a guiding means for the locking element. Regarding claims 18 and 19, Spakman teaches that the cover is secured to the box along two side edges of the casing. Spakman further discloses, "the cover is connected to the box by. . . studs. . . in the manner of a hinge" (col. 1, lines 64-67). Thus, when one side is unlocked, as claimed, the cover is slewable or pivotable along the second side of the casing.

Claims 11-13 and 17-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Jaeb et al. (6,676, 175). Jaeb discloses a security box comprising a main body or base 12 with an opening, a cover 14 slewable or pivotable about hinges 16 relative to the base between an assembled position (Figure 3) and a disassembled position (Figure 2), and a locking element or slide 18 moveable between a locked position and a disassembled position. In the locked position, the locking element extends through and into the housing and cooperates with teeth 50 to lock the cover and the base. Further, Jaeb teaches of hooks extending from the cover 14 including an offset wall 52 and teeth 50. As disclosed in the patented invention, teeth 50 are preferably offset from the front surface of the front wall 40. . . .the offset may be achieved by providing an offset wall 52 connected to front wall 40" (col. 60-63).

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Therefore, the wall and teeth, in combination, form hooks extending from the top surface 40 of the cover 12. Jaeb also discloses guiding means or a slot in which lock slide 18 moves between a locked and unlocked position. Furthermore, the security box also includes a retaining means for retaining the locking element in the locked position. The retaining means is in the form of keys. Moreover, the locking element 18 includes at least one notch, located between teeth 64. When the security box is in the unlocked position, the notches cooperate with each hook to unlock the cover and the base.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spakman et al. (3, 179,737) in view of Napolitano (4, 148,105). Spakman discloses a metal casing for a motor car radio. The metal casing comprises a main body 1 with an opening, a cover 3 moveable between an assembled position and a disassembled position, a locking element 9 moveable between a locked position and an unlocked position. The cover 3 includes at least one hook (shown below and disclosed in Figure 7) and in the assembled position, the hook extends through the opening into the main body. Figures 1 and 2 disclose the locking element extending through and into the main body and cooperating with the hook to lock the cover 3 with the main body 1. However,

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Spakman fails to disclose a retaining means. Yet, Napolitano discloses a securing device with a locking element 10 including a head 13 "having keyholes 14 and 15 formed therein for accommodating a special key. . . .to insert said lock rod through the bores of the tank and. .,to remove said lock rod from said bores" (co1.2, lines 10-16). It would have been obvious to one having ordinary skills in the art at the time the invention was made to modify the locking element or studs 9 of Spakman with a retaining means or a head with keyholes, as taught by Napolitano, for retaining the stud within the guide means and preventing accidental slipping of the stud.

Claims 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaeb et al. (6,676,175) in further view of Daly (4,979,636). Jaeb discloses a security box comprising a main body or base 12 with an opening, a cover 14 slewable or pivotable about hinges 16 relative to the base between an assembled position (Figure 3) and a disassembled position (Figure 2), and a locking element or slide 18 moveable between a locked position and a disassembled position. In the locked position, the locking element extends through and into the housing and cooperates with teeth 50 to lock the cover and the base. Further, Jaeb teaches of hooks extending from the cover 12 including an offset wall 52 and teeth 50. As disclosed in the patented invention, "teeth 50 are preferably offset from the front surface of the front wall 40. . . .the offset may be achieved by providing an offset wall 52 connected to front wall 40" (co1.60-63).

Therefore, the wall and teeth in combination are hooks extending from the top surface 40 of the cover 12. However, Jaeb fails to expressly disclose elastically deformable hooks. Yet, Daly teaches of a housing assembly including a base 14 and cover 12. The

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cover also includes a hook 44 extending therefrom. The hook is a "flexible hook" which is used to hold the cover 12 in place on the housing 14. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the offset wall and teeth of Jaeb with a flexible hook, as taught by Daly, for providing a safeguards for the security box if the lock slide is in the locked position and the cover is pushed toward the base.

Regarding claims 23-25, Jaeb also discloses guiding means or a slot in which lock slide 18 moves between a locked and unlocked position. Furthermore, the security box also includes a retaining means for retaining the locking element in the locked position. The retaining mans includes keys. Moreover, the locking element 18 includes at least one notch, located between teeth 64. When the security box is in the unlocked position, the notches cooperate with each hook to unlock the cover and the base.

(10) Response to Argument

Appellant argues that Spakman does not disclose a cover having at least one hook extending through the opening of the body. The Examiner would like to draw Appellant's attention to Figure 7. In this cross-sectional representation, it is apparent that the cover (3) has a hook shaped element referred to as a lug, extending into the main body (1) of the device. The hook shaped element or lug is located at an elevation lower than the top of the main body sidewall and is therefore considered to extend through and into the opening of the main body.

Appellant further argues that lugs 13, 15, 17 and 19 are arranged in a hinge like manner but do not operate in a hinge like manner. Lines 64-70 in column 1 of the Spakman specification explains that lugs 13, 15, 17 and 19 are arranged in a hinge like manner along both side edges of the box 1 and cover 3. In Figure 1, one locking element 9 was omitted for the sake of clarity. Upon removal of one of the two locking elements (9), the cover (3) will inherently be hingedly connected on one side thereof due to the configuration of the lugs 13,15,17 and 19.

Appellant further argues the cover (14) disclosed by Jaeb does not block the opening of base member (12) when the security box is in the assembled position as shown in Figure 3. The opening of the base member (12) is defined by sidewalls (32), top wall (30) and the bottom edge of back wall (34). As seen in Figure 3, this large rectangular opening is blocked by the cover (14) when the cover is pivoted into the assembled position. The gaps located between elements (54) do not constitute the storage opening of the box, but provide an entrance point through which hook elements (50)(52) can pass into the opening.

Appellant further argues that Jaeb fails to teach or suggest a retaining means for retaining said locking element in the locked position. The Examiner agrees that Jaeb does not disclose a retaining means, however, in the above rejection, Napaolitano is relied upon for his teaching of such retaining means. Napolitano discloses a securing device with a locking element 10 including a head 13 "having keyholes 14 and 15 formed therein for accommodating a special key. . . to insert said lock rod through the

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bores of the tank and . . . to remove said lock rod from said bores" (co1.2, lines 10-16). Such a retaining means would ensure that the lock rod not be withdrawn accidentally.

Appellant further argues that Jaeb fails to disclose a notch that cooperated with at least one hook to unlock said main body and said cover. The Examiner would like to point out that the spaces located between teeth (64) constitute notches (see Figures 4 and 5). As locking element (18) is pulled outward into the unlocked position, these notches or gaps align with teeth (50) allowing the cover (14) to be released from the body (12). The Examiner therefore maintains that these notches are cooperating with said hook to facilitate the release of the cover.

Appellant further argues that Jaeb and Daly in combination do not disclose a deformable hook, guiding means, retaining means and at least one notch. The slot formed in sidewall (32) of base (12) constitutes a guide means. Again, the spaces between teeth (64) of locking element (18) constitute notches. Furthermore, keys, which interact with key openings (66)(68), disclosed by Jaeb constitute a retaining means for keeping the locking element (18) in the locked position. Daly discloses a housing (14) having a cover (12), which includes a "flexible hook" (44) for interacting with a corresponding hook (30) on said housing (14). Modifying the hooks disclosed by Jaeb to be flexible as taught by Daly would have been obvious in that moving the cover into an assembled or disassembled position would no longer cause exact alignment of the teeth and notches. Flexible teeth would create some forgiveness in the box improving the ease with which it is opened and closed.

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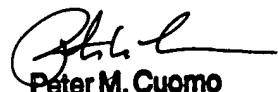
(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Sarah B. McPartlin


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